

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION AT TOLEDO

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|---------------------------------|---|-----------------------|
| Kelli Suttles, <i>et al.</i> , | : | |
| | : | |
| Plaintiffs, | : | Case No. 3:17-cv-1346 |
| | : | |
| v. | : | Judge James G. Carr |
| | : | |
| Buckeye Family Residential Care | : | |
| Services, Inc., <i>et al.</i> , | : | |
| | : | |
| Defendants. | : | |

DEFENDANTS BUCKEYE FAMILY RESIDENTIAL CARE SERVICES, INC. AND
BRAD BELCHER'S ANSWER TO PLAINTIFFS' SECOND AMENDED
COMPLAINT

In response to the Second Amended Complaint filed by Plaintiffs Kelli Suttles, Jessica Tucker, Heidi Phelan, Timothy Phelan, Jeremy Jones, Terra Baker, Nina Meeks, Virginia Monhollen, Julie Potts, Stephanie Swigert, Briana Thoss, Leslie Thoss, and Peggy Miller ("Plaintiffs"), Defendants Buckeye Family Residential Care Services, Inc. ("Buckeye Family") and Brad Belcher ("Mr. Belcher") (collectively, "Defendants") state as follows:

1. Paragraph 1 is a legal conclusion to which a response is not required. To the extent a response is necessary, Defendants deny the allegations contained in Paragraph 1.

2. Paragraph 2 is a legal conclusion to which a response is not required. To the extent a response is necessary, Defendants deny the allegations contained in Paragraph 2.

3. Paragraph 3 is a legal conclusion to which a response is not required. To the extent a response is necessary, Defendants deny the allegations contained in Paragraph 3.

4. In response to Paragraph 4, Defendants admit.

5. In response to Paragraph 5, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same.

6. In response to Paragraph 6, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same.

7. In response to Paragraph 7, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same.

8. In response to Paragraph 8, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same.

9. In response to Paragraph 9, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same.

10. In response to Paragraph 10, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same.

11. In response to Paragraph 11, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same.

12. In response to Paragraph 12, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same.

13. In response to Paragraph 13, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same.

14. In response to Paragraph 14, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same.

15. In response to Paragraph 15, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same.

16. In response to Paragraph 16, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same.

17. In response to Paragraph 17, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same.

18. In response to Paragraph 18, Defendants admit Plaintiffs worked for Buckeye Family, but otherwise deny.

19. In response to Paragraph 19, Defendants admit.

20. In response to Paragraph 20, Defendants admit that Mr. Belcher is the CEO of Buckeye Family, but otherwise deny the allegations contained in Paragraph 20.

21. Paragraph 21 is a legal conclusion to which a response is not required. To the extent a response is necessary, Defendants admit the allegations contained in Paragraph 21.

22. Paragraph 22 is a legal conclusion to which a response is not required. To the extent a response is necessary, Defendants deny the allegations contained in Paragraph 22.

23. In response to Paragraph 23, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same, and admit that Exhibit A speaks for itself.

24. In response to Paragraph 24, Defendants admit.

25. In response to Paragraph 25, Defendants admit.

26. In response to Paragraph 26, Defendants admit.

27. In response to Paragraph 27, Defendants deny.

28. In response to Paragraph 28, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

29. In response to Paragraph 29, Defendants admit.

30. In response to Paragraph 30, Defendants deny.

31. In response to Paragraph 31, Defendants admit.

32. In response to Paragraph 32, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

33. In response to Paragraph 33, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

34. In response to Paragraph 34, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

35. In response to Paragraph 35, Defendants admit.

36. In response to Paragraph 36, Defendants admit.

37. In response to Paragraph 37, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

38. In response to Paragraph 38, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

39. In response to Paragraph 39, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

40. In response to Paragraph 40, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

41. In response to Paragraph 41, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

42. In response to Paragraph 42, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

43. In response to Paragraph 43, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

44. In response to Paragraph 44, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

45. In response to Paragraph 45, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

46. In response to Paragraph 46, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

47. In response to Paragraph 47, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

48. In response to Paragraph 48, Defendants deny for lack of knowledge as to which “pay practices” this paragraph refers to.

49. In response to Paragraph 49, Defendants deny.

50. In response to Paragraph 50, Defendants deny.

51. In response to Paragraph 51, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

52. In response to Paragraph 52, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

53. In response to Paragraph 53, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same.

54. In response to Paragraph 54, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

55. In response to Paragraph 55, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

56. In response to Paragraph 56, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

57. In response to Paragraph 57, Defendants deny for lack of knowledge as to which “pay practices” this paragraph refers to.

58. In response to Paragraph 58, Defendants deny.

59. In response to Paragraph 59, Defendants deny.

60. In response to Paragraph 60, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same.

61. In response to Paragraph 61, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same.

62. In response to Paragraph 62, Defendants admit that Ms. Hickle took over Ms. Miller’s responsibilities, but lack knowledge or information sufficient to form a

belief as to the remaining allegations contained in Paragraph 62 and therefore deny the same.

63. In response to Paragraph 63, Defendants admit Ms. Tucker had a conversation about pay with Mr. Belcher in 2016, but otherwise deny.

64. In response to Paragraph 64, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

65. In response to Paragraph 65, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

66. In response to Paragraph 66, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

67. In response to Paragraph 67, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

68. In response to Paragraph 68, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

69. In response to Paragraph 69, Defendants deny for lack of knowledge as to which “pay practices” this paragraph refers to.

70. In response to Paragraph 70, Defendants deny.

71. In response to Paragraph 71, Defendants deny.

72. In response to Paragraph 72, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

73. In response to Paragraph 73, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

74. In response to Paragraph 74, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

75. In response to Paragraph 75, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

76. In response to Paragraph 76, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

77. In response to Paragraph 77, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

78. In response to Paragraph 78, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

79. In response to Paragraph 79, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

80. In response to Paragraph 80, Defendants deny for lack of knowledge as to which “pay practices” this paragraph refers to.

81. In response to Paragraph 81, Defendants deny.

82. In response to Paragraph 82, Defendants deny.

83. In response to Paragraph 83, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

84. In response to Paragraph 84, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

85. In response to Paragraph 85, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

86. In response to Paragraph 86, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

87. In response to Paragraph 87, Defendants deny for lack of knowledge as to which “pay practices” this paragraph refers to.

88. In response to Paragraph 88, Defendants deny.

89. In response to Paragraph 89, Defendants deny.

90. In response to Paragraph 90, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

91. In response to Paragraph 91, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

92. In response to Paragraph 92, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

93. In response to Paragraph 93, Defendants deny for lack of knowledge as to which “pay practices” this paragraph refers to.

94. In response to Paragraph 94, Defendants deny.

95. In response to Paragraph 95, Defendants deny.

96. In response to Paragraph 96, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

97. In response to Paragraph 97, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

98. In response to Paragraph 98, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

99. In response to Paragraph 99, Defendants deny for lack of knowledge as to which “pay practices” this paragraph refers to.

100. In response to Paragraph 100, Defendants deny.

101. In response to Paragraph 101, Defendants deny.

102. In response to Paragraph 102, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

103. In response to Paragraph 103, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

104. In response to Paragraph 104, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

105. In response to Paragraph 105, Defendants deny for lack of knowledge as to which “pay practices” this paragraph refers to.

106. In response to Paragraph 106, Defendants deny.

107. In response to Paragraph 107, Defendants deny.

108. In response to Paragraph 108, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

109. In response to Paragraph 109, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

110. In response to Paragraph 110, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

111. In response to Paragraph 111, Defendants deny for lack of knowledge as to which “pay practices” this paragraph refers to.

112. In response to Paragraph 112, Defendants deny.

113. In response to Paragraph 113, Defendants deny.

114. In response to Paragraph 114, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

115. In response to Paragraph 115, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

116. In response to Paragraph 116, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

117. In response to Paragraph 117, Defendants deny for lack of knowledge as to which “pay practices” this paragraph refers to.

118. In response to Paragraph 118, Defendants deny.

119. In response to Paragraph 119, Defendants deny.

120. In response to Paragraph 120, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

121. In response to Paragraph 121, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

122. In response to Paragraph 122, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

123. In response to Paragraph 123, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

124. In response to Paragraph 124, Defendants deny for lack of knowledge as to which “pay practices” this paragraph refers to.

125. In response to Paragraph 125, Defendants deny.

126. In response to Paragraph 126, Defendants deny.

127. In response to Paragraph 127, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

128. In response to Paragraph 128, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

129. In response to Paragraph 129, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

130. In response to Paragraph 130, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

131. In response to Paragraph 131, Defendants deny for lack of knowledge as to which “pay practices” this paragraph refers to.

132. In response to Paragraph 132, Defendants deny.

133. In response to Paragraph 133, Defendants deny.

134. In response to Paragraph 134, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

135. In response to Paragraph 135, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

136. In response to Paragraph 136, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

137. In response to Paragraph 137, Defendants deny for lack of knowledge as to which “pay practices” this paragraph refers to.

138. In response to Paragraph 138, Defendants deny.

139. In response to Paragraph 139, Defendants deny.

140. Defendants incorporate by reference the responses set forth in the preceding and following paragraphs as if fully rewritten herein.

141. In response to Paragraph 141, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same.

142. Paragraph 142 is a legal conclusion to which a response is not required. To the extent a response is necessary, Defendants lack knowledge or information sufficient to form a belief and therefore deny the same at this time, but are in the process of compiling records which will help determine the accuracy of this statement.

143. Paragraph 143 is a legal conclusion to which a response is not required. To the extent a response is necessary, Defendants deny the allegations contained in Paragraph 143.

144. Paragraph 144 is a legal conclusion to which a response is not required. To the extent a response is necessary, Defendants deny the allegations contained in Paragraph 144, but admit that a list of potential plaintiffs has already been produced to Plaintiffs.

145. In response to Paragraph 145, Defendants state that the definition of “SSPs” is a legal definition to which no response is required, but otherwise admit.

146. In response to Paragraph 146, Defendants state that the definition of “SSPs” is a legal definition to which no response is required, but otherwise admit.

147. In response to Paragraph 147, Defendants deny.

148. In response to Paragraph 148, Defendants deny.

149. In response to Paragraph 149, Defendants deny.

150. In response to Paragraph 150, Defendants lack knowledge or information sufficient to form a belief as to Plaintiff Tucker’s discussions with others, but admit Plaintiff Tucker discussed pay with Mr. Belcher, and otherwise deny the allegations in Paragraph 150.

151. In response to Paragraph 151, Defendants admit Plaintiff Tucker discussed pay with Mr. Belcher, but otherwise deny the allegations in Paragraph 151.

152. In response to Paragraph 152, Defendants deny.

153. In response to Paragraph 153, Defendants deny.

154. In response to Paragraph 154, Defendants deny.

155. Defendants incorporate by reference the responses set forth in the preceding and following paragraphs as if fully rewritten herein.

156. Paragraph 156 is a legal conclusion to which a response is not required. To the extent a response is necessary, Defendants deny the allegations contained in Paragraph 156.

157. In response to Paragraph 157, Defendants deny.

158. Paragraph 158 is a legal conclusion to which a response is not required. To the extent a response is necessary, Defendants deny the allegations contained in Paragraph 158.

159. Defendants incorporate by reference the responses set forth in the preceding and following paragraphs as if fully rewritten herein.

160. Paragraph 160 is a legal conclusion to which a response is not required. To the extent a response is necessary, Defendants deny the allegations contained in Paragraph 160.

161. In response to Paragraph 161, Defendants deny.

162. In response to Paragraph 162, Defendants deny.

AFFIRMATIVE DEFENSES

163. Plaintiffs fail to state a claim upon which relief can be granted.

164. Plaintiffs have alleged insufficient facts relating to Defendants to maintain a cause of action against them.

165. Plaintiffs' claims fail because Plaintiffs contributed to or caused their own alleged harm.

166. Plaintiffs' claims fail because Plaintiffs failed to mitigate their damages.

167. Plaintiffs' claims are barred because of Plaintiffs' unclean hands and failure to act in good faith.

168. Plaintiffs' claims are barred to the extent that Plaintiffs failed to timely and properly exhaust all necessary administrative, statutory and/or jurisdictional prerequisites for the commencement of this action.

169. Plaintiffs' claims fail because Defendants are not covered under the claims advanced by Plaintiffs.

170. Defendants reserve the right to plead additional affirmative defenses as those defenses may become known through discovery or otherwise in this action.

Respectfully submitted,

/s/ Alexis V. Preskar

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*Counsel for Defendants Buckeye Family
Residential Care Services, Inc. and Brad
Belcher*

CERTIFICATE OF SERVICE

I hereby certify that on November 6, 2017, I submitted the foregoing *Answer to Plaintiffs' Second Amended Complaint* for filing via the Court's CM/ECF filing system which will automatically serve the same upon all counsel of record.

/s/ Alexis V. Preskar
Alexis V. Preskar